

ESTTA Tracking number: **ESTTA363869**Filing date: **08/18/2010**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Major League Softball, Inc.		
Entity	Corporation	Citizenship	California
Address	621 East Walnut Avenue Burbank, CA 91501 UNITED STATES		

Attorney information	Michael E. Dockins Fraser Clemens Martin & Miller LLC 28366 Kensington Lane Perrysburg, OH 43551 UNITED STATES firm@fraser-ip.com Phone:4198741100
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Registration Subject to Cancellation

Registration No	3697345	Registration date	10/20/2009
Registrant	Adams, Thomas R. 5858 Engineer Drive Huntington Beach, CA 92649 UNITED STATES		

Goods/Services Subject to Cancellation

Class 041. First Use: 2006/01/00 First Use In Commerce: 2006/01/00
All goods and services in the class are cancelled, namely: Organizing and scheduling competitions and exhibitions in the field of women's fast pitch softball


Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	77372368	Application Date	01/15/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MAJOR LEAGUE SOFTBALL		

Design Mark	MAJOR LEAGUE SOFTBALL
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1986/11/20 First Use In Commerce: 1986/11/20 Entertainment and information services related to organizing softball leagues for others

U.S. Application No.	77372446	Application Date	01/15/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MLS MAJOR LEAGUE SOFTBALL		
Design Mark			
Description of Mark	The mark consists of "MLS MAJOR LEAGUE SOFTBALL" and design, wherein the design is a softball player swinging a bat within concentric circles.		
Goods/Services	Class 041. First use: First Use: 1986/11/20 First Use In Commerce: 1986/11/20 Entertainment and information services related to organizing softball leagues for others		

Attachments	77372368#TMSN.jpeg (1 page)(bytes) 77372446#TMSN.jpeg (1 page)(bytes) 39540 Petition for Cancellation filed 8-18-10.pdf (5 pages)(189156 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/michael e. dockins/
Name	Michael E. Dockins
Date	08/18/2010

I hereby certify that this correspondence is being deposited electronically
in the United States Patent and Trademark Office before the Trademark
Trial and Appeal Board on August 18, 2010
Name of person signing Todd Jones
Signature: *Todd Jones*
Date of Signature: 8/18/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of:)	
)	No. _____
Petitioner: Major League Softball, Inc.)	
621 E. Walnut Ave.)	
Burbank, CA 91501)	
)	PETITION FOR
)	CANCELLATION
v.)	
)	Registration No. 3,697,345
)	Mark: WMLS WOMENS MAJOR
)	LEAGUE SOFTBALL and
)	Design
Registrant: Thomas R. Adams, dba WMLS)	
5858 Engineer Drive)	Attorney Docket: 1-39540
Huntington Beach, CA 92649)	
)	

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Petitioner, Major League Softball, Inc., a California corporation, located and doing business at 621 E. Walnut Ave., Burbank, California 91501 ("Petitioner") believes that it is or will be damaged by the continued, unmodified registration of the mark shown in U.S. Trademark Registration No. 3,697,345 and hereby petitions for cancellation of the registration pursuant to 15 U.S.C. § 1068.

As grounds for cancellation, Petitioner alleges as follows:

1. Petitioner is the owner of:
 - a) U.S. Trademark Application Ser. No. 77/372,368 for MAJOR LEAGUE SOFTBALL for:

“Entertainment and information services related to organizing softball leagues for others” in International Class 41; and
 - b) U.S. Trademark Application Ser. No. 77/372,446 for MLS MAJOR LEAGUE SOFTBALL and Design for:

“Entertainment and information services related to organizing softball leagues for others” in International Class 41 (collectively, “Petitioner’s Applications”).
2. Mr. Adams (“WMLS”), with a last known address of 5858 Engineer Drive, Huntington Beach, California 92649, is the registered owner of U.S. Trademark Registration No. 3,697,345 for WMLS WOMENS MAJOR LEAGUE SOFTBALL and Design for:

“Organizing and scheduling competitions and exhibitions in the field of women's fast pitch softball” in International Class 36 (the “Registration”).
3. On information and belief, WMLS has used its mark for services related to organizing and scheduling softball events. WMLS’s use of its mark WMLS WOMENS MAJOR LEAGUE SOFTBALL and Design creates a likelihood of confusion between WMLS’s mark WMLS WOMENS MAJOR LEAGUE SOFTBALL and Design and the Petitioner’s marks MAJOR LEAGUE SOFTBALL and MLS MAJOR LEAGUE SOFTBALL and Design.
4. WMLS’s services are identified as “organizing and scheduling competitions and exhibitions in the field of women's fast pitch softball”. Accordingly, WMLS is providing services substantially identical to those of the Petitioner.
5. Petitioner’s Applications each claim a date of first use of at least as early

November 20, 1986.

6. WMLS's Registration claims a date of first use of January 31, 2006.
7. In view of Petitioner's prior use of the MAJOR LEAGUE SOFTBALL and MLS MAJOR LEAGUE SOFTBALL and Design marks, Petitioner has priority over WMLS with respect to use of the mark WMLS WOMENS MAJOR LEAGUE SOFTBALL and Design for "entertainment and information services related to organizing softball leagues for others."
8. On or about February 18, 2010, Petitioner's Applications each received a refusal to register based on section 2(d) of the Trademark Act. The Examining Attorney found a likelihood of confusion between the Registrant's WMLS WOMENS MAJOR LEAGUE SOFTBALL and Design mark and the Petitioner's MAJOR LEAGUE SOFTBALL mark, and between the Registrant's WMLS WOMENS MAJOR LEAGUE SOFTBALL and Design mark and the Petitioner's MLS MAJOR LEAGUE SOFTBALL and Design mark.
9. If the cited Registration is not canceled, Petitioner's ability to register its MAJOR LEAGUE SOFTBALL and MLS MAJOR LEAGUE SOFTBALL and Design marks will be impeded, and Petitioner will be injured thereby.
10. Accordingly, Petitioner requests that the Board cancel U.S. Trademark Registration No. 3,697,345.
11. Cancellation of the WMLS Registration will militate against the confusion created by WMLS's use of the WMLS WOMENS MAJOR LEAGUE SOFTBALL and Design mark on services identical or closely related to those of the Petitioner.

12. Cancellation of the Registration will also remove the basis for the Trademark Examining Attorneys' findings of a likelihood of confusion between the mark in the cited Registration and the Petitioner's MAJOR LEAGUE SOFTBALL and MLS MAJOR LEAGUE SOFTBALL and Design marks.

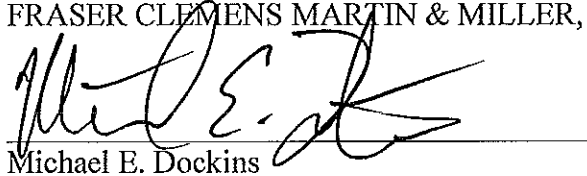
13. Accordingly, Petitioner requests that the Board also direct the Examining Attorneys to withdraw the section 2(d) refusals issued in connection with the Petitioner's Applications.

Wherefore, Petitioner prays that this Petition for Cancellation be granted and that U.S. Trademark Registration No. 3,697,345 be canceled as proposed herein, or in a manner consistent with facts developed in this proceeding.

A duplicate copy of this Petition for Cancellation is being submitted as required by 37 C.F.R. § 2.112(a).

The Commissioner is hereby authorized to charge the \$300.00 filing fee, and any additional filing fees, to Deposit Account No. 50-3156 in the name of Fraser Clemens Martin & Miller, LLC.

Respectfully submitted,
FRASER CLEMENS MARTIN & MILLER, LLC

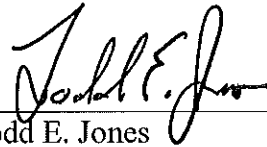
A handwritten signature in black ink, appearing to read "Michael E. Dockins", is written over a horizontal line.

Michael E. Dockins
28366 Kensington Lane
Perrysburg, Ohio 43551-4163
Attorney for Petitioner

CERTIFICATE OF SERVICE

The foregoing Petition for Cancellation was served upon Registrant on August 18, 2010, by depositing true and correct copies in the U.S. Mails, postage pre-paid, addressed as follows:

Morland C. Fischer
Law Offices of Morland C. Fischer
2030 Main Street Suite 1300
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